

U. S. Patent Application No. 09/858,163
Amendment Dated October 1, 2004
Reply to Restriction Requirement Dated September 1, 2004

Remarks

In response to the Office Action mailed September 1, 2004, applicant hereby provisionally elects, with traverses, to prosecute the claims of Group II in this application, consisting of claims 11-26 and claims 30-32.

However, applicant respectfully traverses the restriction requirement as not being properly made, and as being unnecessary.

In raising a restriction request an Examiner should state the particular reasons why the Examiner is holding the invention as claimed as either independent or distinct. MPEP §816. For compliance with the requirements of MPEP §816, an Examiner should indicate the classification of separate status of each group.

In explaining the reasons for the restriction requirement, the Examiner states that Group I claims are in class 235/362.47. It is respectfully submitted that the subclass the Examiner mentions is a subclass relating to registers...with interchangeable scanning head or detachable handle. It is further respectfully submitted that claims 1-10 do not recite any features relating to an interchangeable scanning head or detachable handle. The Examiner further states that Group II claims are drawn to a portable device comprising an imaging assembly, a trigger, a portable housing, and a control circuit, classified in class 235, subclass 462.45. It is respectfully submitted that the above set of features cited by the Examiner in support of the restriction requirement are not included in each claim the Examiner regards as belonging to Group II.

Still further, it is respectfully submitted that search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that “[i] if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits.” Note that numerous combinations of elements of original claims 1-10 already subject to a complete search, are also recited in claims that have been grouped into Groups II and III.

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It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to the applicant and improper duplicative examination by the Patent Office.

Accordingly, in view of the above remarks, the applicant believes all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicant's attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicant's representative at the phone number listed below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

Respectfully submitted,

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